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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/620,231	07/14/2003	Rohit Sachdeva	03-389-A	8511
38600	7590	02/23/2006	EXAMINER	
ORAMETRIX, INC.			MANAHAN, TODD E	
2350 CAMPBELL CREEK BOULEVARD, SUITE 400			ART UNIT	
RICHARDSON, TX 75082			PAPER NUMBER	

3732

DATE MAILED: 02/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/620,231

Applicant(s)

SACHDEVA ET AL.

Examiner

Todd E. Manahan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-86 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-86 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>1/12/04</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Applicant (or the assignee of this application if the assignee has undertaken the prosecution of the application) is required under 37 CFR 1.105 to provide the following information that the examiner has determined is reasonably necessary to the examination of this application.

There are numerous other co-pending applications and issued patents, which disclose and claim very similar and/or identical subject matter. In accordance with 37 CFR 1.105 and MPEP 704.11(a) subsection G, applicant (or the assignee) is respectfully requested to disclose all co-pending applications and related patents (please see the non-exhaustive list below of applications and issued patents that the USPTO believes may be related) and identify the specific claims of those applications and/or patents which may present double patenting issues with the instant application claims. This requirement is reasonably necessary to examination because, based on an initial review of the applications, there is a significant degree of overlap in claimed subject matter, thus requiring an analysis of commonality of claimed subject matter to determine patentability under 35 USC 101 double patenting and/or obviousness type double patenting. For example, claim 23 of application serial number 10/428,461 differs from claim 1 of application serial number 10/620,231 in only the obvious variation instructions allowing selection of reference tooth and instructions for aligning the images and claims 15-22 of application serial number 11/133,996 differ from claims 8 and 10-15 of application serial number 10/620,231 in only the obvious variation of the steps of selecting a treatment plan, monitoring the progress and

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evaluating the progress. Because the applicant (or the assignee) is presumably far more cognizant of the contents of the claims in these applications than any Office staff, and has access to the source documents by which such comparison could be done better than within the Office, it is reasonable to require the applicant to provide the information needed to determine the commonality among the claims.

Should applicant (or the assignee) believe that Double Patenting exists, then applicant (or the assignee) is invited to file Terminal Disclaimers and/or amend the currently pending claims in the interest of expediting the prosecution of the current application. Applicant (or the assignee) should note that a terminal disclaimer is effective to overcome an obviousness type double patenting rejection, but will not overcome a “same type” double patenting rejection under 35 U.S.C. 101.

Non-exhaustive list of possible related co-pending applications and patents:

09/451,560
09/451,564
09/451,609
09/451,637
09/452,031
09/452,033
09/452,038
09/560,127
09/560,129
09/560,130
09/560,134
09/560,641
09/560,642
09/560,643
09/834,412
09/834,413

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09/835,039
10/137,495
10/280,758
10/340,404
10/414,542
10/428,461
10/429,074
10/429,123
10/607,901
10/620,231
10/684,252
10/791,440
10/847,004
10/951,119
11/010,618
11/010,776
11/010,994
11/074,423
11/133,996
11/135,143
11/285,629
11/293,536

Priority

Applicant's reference to the prior applications is incomplete. The specification should be amended so as to set forth the parent data for application serial number 09/834,412.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 16-63, 71-75, and 82-86 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Chishti et al (United States Patent No. 6,227,850).

Chishti et al. disclose an orthodontic treatment planning workstation comprising a computing platform having a graphical user interface 2000, a processor and a computer storage medium containing digitized records including patient image data, text data pertaining to the patient, and virtual models of said patient's dentition in (1) an initial state, and (2) a treatment set-up state. The computer storage further includes a set of software instructions providing graphical user interface tools for access to the digitized records for planning orthodontic treatment of the patient, and a set of computer instructions providing a set of evaluation tools for a user to evaluate, with reference to the patient image data and text data, the treatment set-up state against boundary conditions for treatment of the patient and whether the tooth positions in the treatment set-up corresponds to the treatment goals for the patient. Chishti et al. further disclose related methods of using the system including providing communication features.

Claims 1-86 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Chishti et al. (United States Patent Publication No. 2002/0064748).

Chishti et al. disclose an orthodontic treatment planning workstation comprising a computing platform having a graphical user interface, a processor and a computer storage medium containing digitized records pertaining to a patient. The digitized records include image data, text data, and a set of software instructions providing graphical user interface tools for providing a user with access to the digitized records for planning orthodontic treatment of a patient. The set of instructions include; a) allowing the user to interactively create a proposed set-up for treatment of the patient, the proposed set-up comprising a proposed three-dimensional

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position of the dentition and the surrounding crainofacial structure; and b) evaluation instructions providing a series of predetermined steps for guiding a user to interactively evaluate the proposed set-up, wherein the predetermined steps comprise steps for 1) evaluation of the proposed set-up against boundary conditions for treatment of the patient, the boundary conditions including a least a midline, an occlusal plane, a fixed reference object, and an arch form, and 2) evaluation of whether the tooth positions in both arches, and the inter-arch relationship, of the proposed set-up correspond to the treatment goals for the patient.

Claims 1-70 and 76-86 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Doyle et al. (United States Patent No. 5,879,158).

Doyle et al. disclose an orthodontic treatment planning workstation comprising a computing platform having a graphical user interface, a processor and a computer storage medium containing digitized records pertaining to a patient. The digitized records include image data, text data, and a set of software instructions providing graphical user interface tools for providing a user with access to the digitized records for planning orthodontic treatment of a patient. The set of instructions include; a) allowing the user to interactively create a proposed set-up for treatment of the patient, the proposed set-up comprising a proposed three-dimensional position of the dentition and the surrounding crainofacial structure; and b) evaluation instructions providing a series of predetermined steps for guiding a user to interactively evaluate the proposed set-up, wherein the predetermined steps comprise steps for 1) evaluation of the proposed set-up against boundary conditions for treatment of the patient, the boundary conditions including a least a midline, an occlusal plane, a fixed reference object, and an arch

form, and 2) evaluation of whether the tooth positions in both arches, and the inter-arch relationship, of the proposed set-up correspond to the treatment goals for the patient.

Claims 1-86 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Andreiko et al. (United States Patent No. 5,368,478).

Andreiko et al. disclose an orthodontic treatment planning workstation comprising a computing platform having a graphical user interface, a processor and a computer storage medium containing digitized records pertaining to a patient. The digitized records include image data, text data, and a set of software instructions providing graphical user interface tools for providing a user with access to the digitized records for planning orthodontic treatment of a patient. The set of instructions include; a) allowing the user to interactively create a proposed set-up for treatment of the patient, the proposed set-up comprising a proposed three-dimensional position of the dentition and the surrounding crainofacial structure; and b) evaluation instructions providing a series of predetermined steps for guiding a user to interactively evaluate the proposed set-up, wherein the predetermined steps comprise steps for 1) evaluation of the proposed set-up against boundary conditions for treatment of the patient, the boundary conditions including a least a midline, an occlusal plane, a fixed reference object, and an arch form, and 2) evaluation of whether the tooth positions in both arches, and the inter-arch relationship, of the proposed set-up correspond to the treatment goals for the patient.

Claims 1-86 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Chishti et al. (United States Patent No. 6,406,292).

Chishti et al. disclose an orthodontic treatment planning workstation comprising a computing platform having a graphical user interface, a processor and a computer storage

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medium containing digitized records pertaining to a patient. The digitized records include image data, text data, and a set of software instructions providing graphical user interface tools for providing a user with access to the digitized records for planning orthodontic treatment of a patient. The set of instructions include; a) allowing the user to interactively create a proposed set-up for treatment of the patient, the proposed set-up comprising a proposed three-dimensional position of the dentition and the surrounding crainofacial structure; and b) evaluation instructions providing a series of predetermined steps for guiding a user to interactively evaluate the proposed set-up, wherein the predetermined steps comprise steps for 1) evaluation of the proposed set-up against boundary conditions for treatment of the patient, the boundary conditions including a least a midline, an occlusal plane, a fixed reference object, and an arch form, and 2) evaluation of whether the tooth positions in both arches, and the inter-arch relationship, of the proposed set-up correspond to the treatment goals for the patient.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Todd E. Manahan whose telephone number is 571 272- 4713. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on 571 273-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Todd E. Manahan
Primary Examiner
Art Unit 3732

T.E. Manahan
16 February 2006



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